



320 STEPHENS HALL  
UNIVERSITY OF CALIFORNIA

March 21, 2007

Dear Colleagues,

More than a hundred Senate members have signed the Faculty Shared Governance petition that has been posted online for more than a week. (<http://www.facultysharedgovernance.org>)

The petitioners ask me, as chair of the Academic Senate, to name a blue-ribbon committee to examine ways to review those aspects of the BP/UC Berkeley partnership "that impinge on the Academic Senate's mandate."

The basis for the request is, "Specifically, we are concerned that decisions about appointments and the allocation of resources appear to be going forward without appropriate Academic Senate review."

This petition, and other concerns expressed to me via email and phone, is based, in part, on the petitioners not having all the facts. To set the record straight, I am writing this letter. It will lay out in detail the administration's consultations with the Academic Senate about the BP proposal. It will also support my conviction that "shared governance" has not been "egregiously" violated, as some critics claim. The evidence provided here, I hope, will lay the matter to rest.

The following finding of fact demonstrates that the administration made a good faith effort to carry out "appropriate Academic Senate review" from the outset of its contacts with BP. In one critical area the administration neglected to make a direct and timely presentation to the Budget Committee (BC) about FTE requirements, as campus practice would dictate, but Vice Chancellor Beth Burnside later took steps to remedy this lapse.

The crunch imposed by the BP proposal deadline may have led to the perception of an "impingement" on the Senate's mandate. It was regrettable, but the evidence clearly shows it was unintentional and understandable under the circumstances.

Furthermore, Vice Chancellor Burnside's conscientious consultations with two other Senate committees -- the Committee on Academic Planning and Resource Allocation (CAPRA) and the Committee on Research (COR) -- mitigated the effects of any possible "impingement."

Everybody in Senate leadership who had a hand in the consultations about the Energy Biosciences Institute (EBI) holds Vice Chancellor Burnside in the highest esteem. The consensus is that her efforts on behalf of the University rose above and beyond the call of duty and probably made the difference in terms of Berkeley being selected in the first place.

The shared governance issue, as regards the BC and the EBI, was addressed directly and resolved at a meeting held February 13 between VCR Burnside, Executive Vice Chancellor and Provost George Breslauer, Vice Provost Jan de Vries, and the full Budget Committee. Though the initial consultation process for the request for the proposed FTE for the project was not consistent with prior tradition, the BC has been assured that the process for appointments will be consistent with BC and campus practice. Therefore, the petitioners' suggestion that resource decisions are going forward without appropriate Senate review is mistaken.

To provide more background regarding the process of consultation between the administration and the Academic Senate, I conducted an extensive review of all contacts between the administration and the Senate beginning August 2006 regarding BP. Some of this information has been mentioned before, but this is the most complete record.

To create this timeline, I have received input from the Chairs of the Budget Committee and CAPRA. EVCP Breslauer has provided detail and commentary. In addition, I include mention of the steps taken by the Senate to inform BP critics of the administration's consultation activities.

1. Beginning last fall, Vice Chancellor Burnside or Associate Vice Chancellor Robert Price briefed CAPRA approximately every other week during the proposal development process, and they also briefed COR on September 25, 2006 and again on October 23, 2006. I was personally briefed by Vice Chancellor Burnside September 5, 2006, along with Vice Chair Sheldon Zedeck.
2. On September 9, 2006, a Campus Administrative Memo was circulated to deans, department chairs, and directors asking faculty and researchers to indicate their research interests and capabilities that are potentially relevant to a Berkeley EBI.
3. From the minutes of the CAPRA meeting November 22, 2006, "Vice Chancellor-Research Beth Burnside informed the committee that the proposal for the British Petroleum Energy Biosciences Institute is undergoing final editing, and will be sent to BP next week. CAPRA will be given a copy of the final version. She anticipates that, if the campus is

successful in securing the contract, the Chancellor has pledged 7 new FTE in areas relevant to the Institute. The deans have agreed that these FTE will be advances to regular FTE allocation over the next 10 years, and will not result in net growth in FTE at the end of ten years over and above what would have happened without this Institute.”

4. The Chair of the BC is a member of CAPRA. The one meeting of CAPRA that the BC Chair was unable to attend was the one at which Burnside outlined the 7 FTE to be assigned to the EBI. On November 20, 2006, the Chair of CAPRA had briefed DIVCO, and the BC Chair was present, and expressed his concern that there had been no direct consultation with the Budget Committee regarding the proposed new FTE. On November 16, the BC chair had received a copy of the BP proposal in its draft form and was invited along with other CAPRA members to provide feedback before its submission a week later. BC Chair Pat Kirch acknowledges receiving the copy of the BP proposal, but he points out that neither this document nor a briefing of the BC chair satisfies the requirement for a written request to the Budget Committee regarding FTE requests. “I guess what I’m trying to point out here is that consultation with CAPRA is not the same thing as consultation with BC when it comes to FTE,” wrote Chair Kirch. Chair Kirch notes that long-standing campus practice with respect to FTE requests always involves written communication from the administration directly to the Budget Committee, with a formal written response.
5. The CAPRA chair Calvin Moore recalls informing VCR Burnside of the need to make a request directly to the BC. EVCP Breslauer acknowledges failure to consult the BC was a mistake, but understandable given the magnitude of the task facing VCR Burnside in late November.
6. On February 1, the press conference took place announcing the UC Berkeley/BP partnership. At a reception afterward, Chancellor Birgeneau spoke publicly about a specific person as a future appointment, but again without having presented any specific names to the Budget Committee. The Chancellor has the authority to appoint senior scientists as directors of programs without going through the BC, but needs to consult with the BC for faculty positions.
7. In the week following the February 1 announcement, Vice Chancellor Burnside provided a non-redacted hardcopy of the BP proposal to the Academic Senate. In response to a number of inquiries from concerned Senate members, the document was made available for review at the Academic Senate office.
8. On February 12, the Senate’s Divisional Council (DIVCO) held its regular meeting. The Chair of BC again reiterated his concern that the Budget Committee had not received any direct communication from the administration about the 7 FTE, and other members of DIVCO insisted that the EBI was in no way exempt from the customary practices of

Budget Committee review. The Chancellor's remarks at the reception regarding as the appointment of a specific person as part of EBI were specifically mentioned as being contrary to customary practices of Budget Committee review of faculty appointments. The criticism included the continued lack of any written communication from the administration to the Budget Committee regarding the 7 FTE proposed for the EBI.

9. When the DIVCO meeting adjourned, I informed Vice Chancellor Burnside of the council's dissatisfaction with what appeared to be an exclusion of the Budget Committee from its customary and legitimate role.
10. On February 13, Burnside, Breslauer, and de Vries visited the Budget Committee at its regularly scheduled meeting, and a discussion lasting more than an hour took place. Burnside and Breslauer assured the BC that the 7 FTE would be filled only through the normal review-and-appointment process and that they would count against units' target sizes. Participants said the meeting was constructive and cleared the air. In response to this meeting, Chair Kirch sent an email to me informing me that the Budget Committee was now satisfied that due process would be followed with respect to FTE allocations. I relayed this email to the chairs of key senate committees.
11. On February 15 I met twice with the Chancellor. One meeting involved a number of members of DIVCO, the other involved just the Chancellor, myself and Vice Chair Zedeck. On both occasions, I and others in Senate leadership, emphasized the necessity that the Budget Committee be consulted on all EBI faculty hires. I received what I believed were reasonable assurances.
12. The Academic Senate held an open forum on March 8 to discuss the EBI and to allow questions and comments from a wide range of opinions. Several days before the forum, VCR Burnside placed a redacted version of the BP Proposal online. The Chancellor, Steven Chu, the director of the Lawrence Berkeley Lab, Vice Chancellor Burnside, and Jay Keasling, Hubbard Howe, Jr. Professor of Biochemical Engineering, took questions from the audience.
13. Following the announcement of February 1, the nature of consultations with the Senate changed. Negotiations got underway to create a contract to operationalize the EBI. On March 20, VCR Burnside advised me that the chairs of the Budget Committee, the Committee on Research, the Committee on Academic Planning and Resource Allocation, and the Committee on Academic Freedom had been invited to participate in the negotiation of the contract for the EBI agreement with BP. She asked that DIVCO entrust these chairs to provide confidential input to the negotiations. Once the contract was signed, they would be released from a pledge of confidentiality.

As a final point to my summary of the process, it is worth noting that Berkeley's involvement in the planning of the BP proposal contrasts sharply with what happened on the campus of the University of Illinois, the third academic partner in the EBI. According to my counterpart at the Champagne-Urbana campus, the faculty senate there knew nothing of the BP negotiations until the announcement was made February 1.

Although the shared governance question is resolved regarding EBI, the record shows that the call for a blue ribbon committee is both timely and urgent. But its charge should not be limited to the EBI consultations. There's a need to find ways by which the Senate can organize itself better to deal with major partnerships with the private sector, such as the BP/EBI project. The Senate needs to provide oversight without imposing an onerous regime of regulation. A committee needs to be charged with creating ways and means by which Berkeley can seize opportunities for partnerships, while preserving the essentials of the campus culture, academic freedom and shared governance. The Senate leadership is currently pursuing such mechanisms and encourages suggestions from any interested parties.

Sincerely,

William Drummond  
Chair, Berkeley Division of the Academic Senate  
University of California